

10 NOV 2003



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In re Application of
Zheludev et al.
Application No.: 09/937,736
PCT No.: PCT/GB00/01199
Int. Filing Date: 29 March 2000
Priority Date: 29 March 1999
Attorney's Docket No.: H48.12-0001
For: TRANSMITTING AND RECEIVING
APPARATUS

: DECISION ON
: RENEWED PETITION
: UNDER 37 CFR 1.47(a)

This is a decision in response to the “RENEWED PETITION UNDER 37 CFR § 1.47” filed on 30 May 2003 to accept the application without the signature of inventor Boris Kokorin.

BACKGROUND

On 29 March 2000, applicant filed international application PCT/GB00/01199 that claimed priority of an earlier British application filed 29 March 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 05 October 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 27 October 2000 prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 29 September 2001.

On 28 September 2001, applicant filed a letter for entry into the national stage in the United States which was accompanied by a copy of the International Application, a preliminary amendment, drawing sheets, an abstract, a copy of the International Search Report and the basic national fee of \$430 as required by 35 U.S.C. 371(c). These papers were assigned application number 09/937,736.

On 06 November 2001, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration and a surcharge fee. The notification set a two-month time period in which to respond.

On 06 May 2002, applicant filed a "Petition Under 37 CFR 1.47(b) to Accept Application Without Inventor's Signature" requesting that the application be accepted without the signatures of inventors Nikolay Zheludev and Boris Kokorin.

On 02 December 2002, the USPTO mailed a decision indicating that Mr. Wardle's statement was unacceptable insofar as it was not based on first hand knowledge of the facts.

On 30 May 2003, applicant filed the current petition including a declaration signed by Nikolay Zheludev, and a declaration by Mr. Michael Kerns.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor. Applicant has satisfied items (1), (3) and (4).

With respect to item (1), applicant has provided the \$130 petition fee. With respect to item (3), applicant has provided a statement of the last known address of Boris Kokorin. With respect to item (4), applicant has provided a declaration executed by Richard Wardle (Director of Hex Technology Holdings Limited) on behalf of Boris Kokorin.

With respect to item (2) above, Mr. Kerns states that he hand carried a copy of the entire application papers to inventor Boris Kokorin and that inventor Kokorin refused to execute the declaration.

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

The application will be given an international filing date of 29 March 2000 under 35 U.S.C. 363, and a date of 30 May 2003 under 35 U.S.C. 371.



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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Mr. Boris Kokorin) may join in the application by promptly filing an appropriate oath or Declaration complying with 37 CFR 1.63. The international application number is PCT/GB00/01199 and was filed on 29 March 2000 in the names of Nikolay Zheludev and Boris Kokorin for the invention entitled TRANSMITTING AND RECEIVING APPARATUS. The national stage application number is 09/937,736 and has a 35 U.S.C. 371 date of 30 May 2003.

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In re Application of: Zheludev et al.
Application No.: 09/937,736
PCT No.: PCT/GB00/01199
Int. Filing Date: 29 March 2000
Priority Date: 29 March 1999
Attorney's Docket No.: H48.12-0001
For: TRANSMITTING AND RECEIVING
APPARATUS

Dear Mr. Kokorin:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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